



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/092,477	03/08/2002	Christophe Bezault	BEZAULT=1	1203

7590 09/12/2003

BROWDY and NEIMARK
SUITE 300
624 Ninth Street N.W.
WASHINGTON, DC 20001-5303

EXAMINER

JOHNSON, BLAIR M

ART UNIT	PAPER NUMBER
----------	--------------

3634

DATE MAILED: 09/12/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/092,477

Applicant(s)

BEZAULT, CHRISTOPHE

Examiner

Blair M. Johnson

Art Unit

3634

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 May 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 and 9-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 9-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Note: In response to Applicant's letter of 8/25/03, the Office action mailed 7/29/03 is repeated as follows with a new cover letter (PTO-326) indicating that the action is not made final, as earlier indicated on the form 326. There are no changes to the Office action.

Claim Rejections - 35 USC § 112

Claim 6 is rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

In claim 6, cable is recited as having fastening means at each end. This has not been disclosed.

Claim Rejections - 35 USC § 103

Claims 1-6 and 9-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Griffith in view of Applicant's specification.

The concept of providing elastic bungee cords 15 to tension a covering on a frame is well known, as illustrated by Griffith, column 3, lines 3-9. Applicant discloses, on page 6, that the material used for his cables is known. It would have been obvious to modify the cables 15 of Griffith whereby they are made of the known material disclosed, such being obvious so as to achieve the well known advantages of this material. The method limitation of claims 2 and 11 is not given weight due to the fact that the present

claims are article claims. The color, cross-section and diameter are all limitations that would have been obvious design modifications.

Claims 1-6 and 9-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Griffith in view of either Richno or Mellea et al.

The structure of Griffith may be considered either one of the broadly recited "covering" or "cladding". Both Richno and Mellea et al each disclose that silicone, of which polysiloxane is a well known example, and in the case of Mellea et al, specifically polysiloxane, has the property of elasticity when tensioned. Richno provides silicone rubber bands, or cables, which are stretched (column 4, lines 26-32), and Mellea et al provides polysiloxane to provide a superior elastic material, paragraph 0032. It would have been obvious to modify Griffith whereby his elastic cords are made of polysiloxane to achieve the advantages promoted by both Richno and Mellea et al.

Response to Arguments

Applicant's arguments have been fully considered but they are not persuasive. Regarding claim 6, there has been no proper disclosure of the fastening means or mentioning that such is conventional so as to preclude further details thereof. Consequently, the disclosure is insufficient as to this feature.

Applicant has argued that he has discovered the fact that silicone cords, cables, etc., are capable of being tensioned. This clearly is in error since at least the inventors thereof were sure to have performed structural tests to determine its strengths and capabilities. Nonetheless, the Examiner has located at least two references, Richno and Mellea et al, which do specifically point out that silicone, and in particular, polysiloxane,

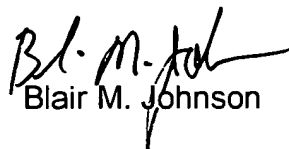
Art/Unit: 3634

are capable of being tensioned. Due to the new rejection not being necessitated by Applicant's response, this action is not made final.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Blair M. Johnson whose telephone number is (703) 308-0526. The examiner can normally be reached on Mon.-Fri., 6:30-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on (703) 308-2686. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3597 for regular communications and (703) 305-3597 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 306-4177.



Blair M. Johnson

Primary Examiner
Art Unit 3634

BMJ
September 4, 2003